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NO. 565

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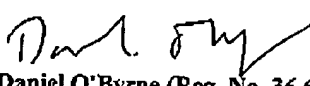
JUL 06 2009

Agent's Docket N. 42021/ASI/mfc

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OFFICIAL

Milan,  
July 3, 2009

  
Daniel O'Byrne (Reg. No. 36,625)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: )  
Applicant: Oscar Lucini )  
Ser. No.: 10/577,272 ) Group Art Unit: 1796  
Filed: April 26, 2006 ) Examiner: KOLLIAS, Alexander C  
For: Binding resin, particularly for building and transportation, method for  
preparing the same, and articles obtainable with the resin

Commissioner for Patents

Mail Stop Amendment

P.O. Box 1450

Alexandria, VA 22313-1450 USA

Sir,

**PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136**

The applicant herewith petitions the Commissioner of Patents and Trademarks to extend the time for response to the Office action dated March 4, 2008 for three months from April 4, 2009 to July 4, 2009. Please charge the **deposit account number 13-3860** of applicant's agent of record, in the amount of **US\$ 555.00 (fee code 2253)** to cover the cost of the extension. Any deficiency or overpayment should be charged or credited to the above numbered deposit account.

**RESPONSE**

This is in response to the Office Action dated March 4, 2009.

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### Response

In compliance with the requirement of the Examiner to elect a single disclosed and claimed species under 35 U.S.C. §121, and to list all claims readable thereon, Applicant hereby elects with traverse the invention Group I. The claims directed to the elected embodiment are claims 41-60 and 77, drawn to a binding resin.

Anyway, the right is reserved to file a divisional applications for the non-elected embodiments, if necessary.

As mentioned above the election is made with traverse.

It is noted that the Examiner considers that the inventions listed as Groups I-III do not relate to a single inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical feature. Specifically, the Examiner considers that "the technical feature which is common to both groups, namely a powder that comprises silica and a hardening agent, does not define a contribution over the prior art as evidenced by Yasuda et al, specifically see col. 2, lines 32-30 that discloses a composition comprising fine silica powder and a hardening agent and, therefore, the cited technical feature does not constitute a special technical feature".

However, the claims refer to a binding resin, a method for producing the same binding resin and a product obtained with such method and under the PCT regulations such claims are considered *a priori* to be drawn to the same invention. Moreover, claims 41, 61, 76 and 78 explicitly or implicitly all refer to silica powder and a hardening agent in combination with a solution of at least one silicate of an alkaline metal. Yasuda et al does not disclose or suggest such features in combination. Accordingly, the claims can neither be said to lack unity of invention *a posteriori* since the prior art neither disclose nor suggests the common technical feature thereof.

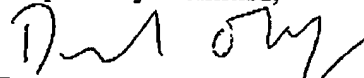
The Applicant accordingly submits that there is unity of invention between the cited groups under the PCT regulations.

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Respectfully submitted,



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